

Terms for the supply of service and the sale of goods

**1. APPLICATION**

1.1 The following terms comprise the contractual terms between the Company and the Customer for the supply of services or sale of goods by the Company. No other terms apply unless varied in writing by the Company and the Customer. Any variation is binding on the Company only if signed by a director or other duly authorised officer of the Company.

**2. DEFINITIONS**

2.1 In these terms the following expressions have the following meanings:-  
 "Order" The communication to the Company of goods and/or services required whether communicated verbally, electronically, or in writing and the completed computer input process which evidences the acceptance by the Company of the Customer's offer to purchase Goods.  
 "Contract" The Order, these trading terms and any other document agreed by the Company in writing as forming part of the contract  
 "Goods" The goods for supply by the Company specified in the Order and where appropriate any services supplied by the Company  
 "Customer" The purchaser of the Goods whose order is accepted by the company. "Company" Three Counties Feeds Limited

**3. CONTRACT**

3.1 The contract comprises these terms and the Order. No other terms, representations, information or advice given orally or in writing or in the Company's publicity material is of effect unless referred to in the Order.

**4. PRICE**

4.1 The price of the Goods is as agreed between the Company and the Customer whether written or verbal and entered within the Company's computer input process (which evidences confirmation of the price). The price is quoted exclusive of VAT and any other duties or taxes unless specifically stated. Prices include standard packaging if appropriate

4.2 The price is inclusive of all rebates, surcharges and discounts applicable to the order.

4.3 Prices are stated either delivered or collect from mills or stores as agreed between the Customer and the Company

4.4 The Company reserves the right to make additional haulage charges with prior agreement of the Customer.

**5. PAYMENT**

5.1 Payment in full is required by the payment due date on the invoice. If full payment is not made on the due date the Company is entitled to charge interest on the outstanding balance at the rate of up to 0.0625% per day (24.6% APR) from the due date of payment until payment in full.

5.2 The Customer may not withhold payment of any invoice by reason of any right of set-off or any claim or dispute with the Company.

5.3 Without prejudice to any other rights of the Company if the Customer fails to make payment when due, the Company is entitled forthwith to cancel the Contract.

**6. ORDERS**

6.1 The Company's normal delivery notice is 72 hours for bulk orders and 7 days for bags, during the peak periods during November to April the notice period may be extended at the Company's discretion.

6.2 The Company will make every effort to deliver at a shorter notice period in urgent circumstances but such delivery remains at the Company's discretion, and the Company reserves the right to make additional charges.

**7. DELIVERY**

7.1 Dates and times given for delivery of Goods are estimates and are a condition of this contract and the Company is not liable for any delay in the delivery of Goods whatsoever caused

7.2 The Company shall pack and secure the Goods in such a manner as to reach the agreed point of delivery in good condition under normal conditions of transport.

7.3 If the Customer agrees to collect or arrange for the collection of the Goods from the Company's premises the delivery shall be affected and risk but not title shall pass when the Goods are handed to the Customer or its carrier at such premises.

7.4 The Company shall notify the Customer of expected dates and times of despatch and delivery if requested by the Customer either at the time the order is placed or if subsequently requested, delivery shall be effected and risk but not title shall pass when delivery is tendered at the nominated place.

7.5 The Customer shall notify the Company if Goods to be delivered do not arrive within three working days of the expected delivery date.

7.6 The Customer shall carefully examine the Goods delivered on receipt and immediately notify the Company and within three working days confirm in writing any details of any short delivery defects reasonably discoverable on careful examination.

7.7 The Customer shall notify the Company immediately and within three working days confirm in writing any details of nutritional defects arising.

7.8 The Company shall replace or, at its option, refund the purchase price of any defective or undelivered Goods but shall not be under any other liability to the Customer in this respect. If the Company has not received the notices referred to in clauses 7.5 and 7.6 it shall be discharged from all liability (whether arising in negligence or otherwise). arising from non-delivery, short delivery or from such defects.

**8. RISK**

8.1 Risk of loss, damage, or destruction of the Goods passes to the Customer on delivery of the Goods, If the Customer wrongfully fails to accept delivery, risk passes when the Goods are tendered.

**9. RETENTION OF TITLE**

9.1 Title to the Goods is retained by the Company until the Company has received in cleared funds payment in full of the price of all Goods supplied by the Company to the Customer. The Customer holds all Goods owned by the Company as the Company's fiduciary agent and bailee. Until payment the Customer must take all necessary measures for the protection of the Goods including insurance. The Customer must maintain records of the location of the Goods so they remain easily identifiable. The Company may at any time if payment is overdue enter the Customer's premises for the purpose of recovery of the Goods and all costs and expenses reasonably incurred by the Company in connection with that recovery shall be paid by the Customer.

9.2 To the extent that the Goods are incorporated into other goods owned by the Customer or some other third party the product becomes or shall be deemed to be owned in common with that other person.

**10. LIMITATION OF LIABILITY**

10.1 Subject to clauses 10.2 and 10.5 the Company agrees to replace any

defective Goods supplied by the Company to the Customer.

10.2 The Company is liable under the warranty in clause 10.1 above only if:  
 (a) the Company is satisfied that the Customer has used the Goods in accordance with any advice supplied by the Company, and

(b) the Goods are stored in accordance with any instructions given by the Company, and

(c) the Goods are used within any "best before" date provided by the Company, and

(d) the Customer has not added to or altered the Goods in any way whatsoever, and

(e) the Customer in accordance with clause 7.6 and 7.7 notified the Company of any alleged defect in the Goods and allows the Company five clear working days after such notice to inspect the Goods fully (which may include expert analysis), and

(f) the Customer has paid for the Goods in full.

10.3 The Company shall indemnify the Customer  
 (a) if the Unfair Contract Terms Act 1977 and the Unfair Contract Terms Regulations 1994 apply to the supply of the Goods against liability for personal injury or death directly attributable to the negligence of the Company; and

(b) against physical damage caused to the Customer's property directly arising from the negligence of the Company in connection with the supply of Goods.

10.4 The total liability of the Company to the Customer shall not exceed £500,000 (excluding legal costs) with respect to any one claim.

10.5 Subject to the provisions of this clause 10, the Company shall not be liable to the Customer for any loss, expense or damage of any kind (direct, indirect, financial or consequential and whether arising from negligence or otherwise) resulting from the supply, or purported supply, failure to supply, or from the Customer's use, possession or resale of the Goods.

10.6 The Customer acknowledges that the price of the Goods reflects the limitations contained in this clause 10. The Customer shall effect insurance cover in respect of all risks relating to the Goods which are not covered by the indemnity contained in Clause 10.3.

10.7 The Company is entitled at its discretion to repay the price for the Goods and make a payment in lieu of damages if it determines not to replace the Goods.

10.8 No officer or employee of the Company shall be liable to the Customer in any circumstances for any loss, expense or damage of any kind (direct, indirect, financial or consequential and whether arising from negligence or otherwise) arising from any act or omission of his during the performance of his employment or other duties. All officers and employees of the Company shall be entitled to the benefit of the exemptions, limitations, terms and conditions in this contract.

**11. TERMINATION OF CONTRACT**

11.1 The Company shall have the right to terminate this Contract immediately without affecting its accrued rights by giving notice to the Customer if:  
 (a) The Customer defaults in the payment on its due date of any sum under or pursuant to any transaction under this Contract or commits any continuing or serious breach of this Contract or fails to remedy such breach (if capable of remedy) within ten working days of the Company's notice to do so; or

(b) Any of the following events occurs:  
 (i) distress of execution is levied against any of the Customer's assets and is not paid or discharged within seven days of a judgement against the Customer remains unsatisfied for more than seven days or a receiver is appointed with respect to any of the Customer's assets; or

(ii) in the case of a Customer which is a company, a petition is presented for the winding up of or for an administration order to be made in respect of the Customer or a resolution passed for the Customer's winding up (other than a member's voluntary winding up for the purposes of amalgamation or reconstruction in terms approved in writing by the Company) or

(iii) the Customer suspends or threatens to suspend payments of its debts or is unable to pay its debts for the purposes of Section 123 Insolvency Act 1986 or as a result of any change in the powers, business or circumstances of the Customer. It is unlikely to be in a position to fulfil the Contract or any transaction pursuant to it.

(c) At any time the Company has reasonable grounds to believe that any of the events mentioned in (a) or (b) above is likely to happen within a period of three months.

11.2 On termination of this Contract for any reason:

(a) The Company shall be discharged from any further liability to perform under the Contract;  
 (b) The Customer shall pay the Company on demand for all work performed by the Company for the Customer prior to termination; and

(c) The Company is granted an irrevocable licence to enter the Customer's premises to recover any Goods or other materials which are the Company's property.

**12. PROPRIETARY RIGHTS**

12.1 All copyright, patent, trade secrets and other proprietary and intellectual property rights in the goods including their packaging and all information which the Company may provide to the Customer shall (as between the parties) at all times remain vested in the Company and the Customer shall not acquire any intellectual property rights or licence relating to the Goods and may not copy or imitate the Goods.

**13. GOVERNING LAW**

13.1 This contract is in all respects governed by English Law.

**14. FORCE MAJEURE**

14.1 The Company shall not be liable in any way for any failure to perform its obligations or for loss, damage or delay caused by the Customer resulting from circumstances beyond the Company's reasonable control including but not limited to:

(a) acts of God, explosion, flood, tempest, disease, fire or accident;  
 (b) war or threat of war, sabotage, insurrection, civil disturbance or requisition;  
 (c) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

(d) import or export regulations or embargoes;  
 (e) strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of the Company or a third party; difficulties in obtaining raw materials, labour, fuel, parts of machinery, power failure or breakdown in machinery.

**15. DATA PROTECTION NOTICE**

15.1 The use and storage of any personal details that the Company holds about the Customer and its officers, staff and other individuals it represents is governed by the General Data Protection Regulation ((EU) 2016/679) (GDPR) (for so long as GDPR is effective in the UK) and the Data Protection Act 2018 or any successor legislation.

15.2 The Company and its carefully chosen suppliers, advisers and subcontractors, will use these personal details solely to provide the Customer with the Goods, to comply with its reporting obligations and to monitor, develop and improve its Goods and services (including obtaining credit insurance, making credit reference agency searches, credit control, credit assessment and analysis and protecting the Company's interests). Where the Customer has provided consent, the Company will provide the Customer with marketing material. Where the Customer provides the Company with personal details about its officers, staff or other individuals that it represents, the Customer confirms that it has obtained the appropriate consents or there is another lawful basis for it to share such personal details with the Company for the reasons set out above.

15.3 The Company will only use these personal details as set out in the privacy policy on its website ([www.threecountiesfeeds.co.uk](http://www.threecountiesfeeds.co.uk)).